

Message Text

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ACTION IO-14

INFO OCT-01 EUR-25 NEA-10 ISO-00 DPW-01 SCS-03 SCA-01 SR-02

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TO SECSTATE WASHDC 4485

INFO USUN NEW YORK 619

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E.O. 11652: N/A

TAGS: ICRC, PARM

SUBJECT: RED CROSS CONFERENCE - RESOLUTION ON REAFFIRMATION AND
DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE
IN ARMED CONFLICTS - STATUS OF NATIONAL LIBERATION MOVE-
MENTS AT 1974 DIPLOMATIC CONFERENCE

1. SUMMARY: RED CROSS CONFERENCE ADOPTED GENERAL RESOLUTION
CONCERNING DRAFT ADDITIONAL PROTOCOLS TO GENEVA CONVENTIONS
PREPARED BY ICRC, WELCOMING 1974 DIPLOMATIC CONFERENCE, AND
APPEALING TO PARTICIPANTS IN THIS CONFERENCE TO DO UTMOST TO
SECURE WIDEST AND SWIFTEST ADOPTION OF TWO ADDITIONAL PROTOCOLS.
U. S., UK, FRANCE AND OTHERS FORCED TO ABSTAIN IN FINAL VOTE ON
THIS RESOLUTION BECAUSE OF ADDITION IN OTHERWISE NON-CONTRO-
VERSIAL TEXT OF PARAGRAPH URGING DIPLOMATIC CONFERENCE TO CONSIDER
INVITING NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY REGIONAL
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INTER-GOVERNMENTAL ORGANIZATIONS TO PARTICIPATE IN ITS WORK AS

OBSERVERS IN ACCORDANCE WITH UNITED NATIONS PRACTICE. FULL TEXT OF ADOPTED RESOLUTION TRANSMITTED PARA 11 BELOW. END SUMMARY.

2. DENMARK AND SWEDEN PRESENTED NON-CONTROVERSIAL DRAFT RESOLUTION TO COMMISSION ON INTERNATIONAL HUMANITARIAN LAW CONCERNING WORK DONE BY ICRC ON DRAFT NATIONAL PROTOCOLS TO 1949 GENEVA CONVENTION AND WELCOMING CONVENING OF DIPLOMATIC CONFERENCE BY SWISS IN 1974. RESOLUTION AS TABLED WOULD HAVE PASSED UNANIMOUSLY WITH FULL SUPPORT OF ALL AT CONFERENCE.

3. NORWAY INSTIGATED SUBMISSION OF AMENDMENT COSPONSORED BY NIGERIA, RUMAIA AND SIERRA LEONE AND RED CROSS DELEGATIONS OF RUMANIA, SENEGAL AND TANZANIA, WHICH PROVIDED FOR ADDITION OF NEW OPERATIVE PARAGRAPH: "ALSO URGES THE DIPLOMATIC CONFERENCE TO INVITE RECOGNIZED NATIONAL LIBERATION MOVEMENTS TO PARTICIPATE IN ITS WORK". ACTING LEGAL ADVISER ALDRICH STRESSED UNACCEPTABILITY OF THIS AMENDMENT AND SAID IF NATIONAL LIBERATION MOVEMENTS PARTICIPATE IN CONFERENCE USG WOULD HAVE TO CONSIDER SERIOUSLY WHETHER IT WOULD PARTICIPATE.

4. ADDITIONAL AMENDMENT ON NATIONAL LIBERATION MOVEMENTS SUBMITTED BY GOVERNMENT DELEGATIONS OF ALGERIA, LEGANON, MAURITANIA, SAUDI ARABIA, UPPER VOLTA AND YUGOSLAVIA. THIS AMENDMENT PROPOSED, NEW OPERATIVE PARA: "URGES THE DIPLOMATIC CONFERENCE TO INVITE NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY REGIONAL INTER-GOVERNMENTAL ORGANIZATIONS, IN ACCORDANCE WITH THE UNITED NATIONS CHARTER, TO PARTICIPATE IN ITS WORK." NORWAY AND COSPONSORS WITHDREW THEIR AMENDMENT IN FAVOR OF THIS AMENDMENT.

5. DELOFF SOUGHT TO CONVINCE NORWEGIANS OF DAMAGING ASPECTS OF SUCH AMENDMENT, BUT ONE NORWEGIAN INITIATED PROCESS OF GETTING NEW PARAGRAPHS ON NATIONAL LIBERATION MOVEMENTS, THIS PROCESS IRREVERSIBLE. LONGVA (NORWAY) KEY MOVE. OFSTAD WHO HEADED NORWEGIAN DELEGATION, IMPLIED LONGVA GOING FURTHER THAN INSTRUCTIONS REQUIRED BUT THAT THERE NOTHING HE COULD DO ABOUT IT. LONGVA, ON THE OTHER HAND, ARGUED HE REFLECTED GON POSITION. WE MADE CLEAR TO NORWEGIANS THAT WE REGARDED VERY UNFAVORABLY INITIATIVE OF NATO ALLY WHICH COULD RESULT IN PREVENTING USG FROM PARTICIPATING IN CONFERENCE ON LAW OF WAR. IN SEPARATE PRIVATE CONVERSATION WITH EGYPTIAN REP EL-REEDY, HE CONFIRMED OUR ESTIMATE THAT NEITHER AFRICANS NOR LIMITED OFFICIAL USE

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ARABS HAD BEEN LIKELY TO RAISE THIS MATTER ABSENT NORWEGIAN INITIATIVE.

6. CANADIAN REP MILLER PROPOSED "COMPROMISE" LANGUAGE: "URGES THE DIPLOMATIC CONFERENCE TO CONSIDER INVITING NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY REGIONAL INTER-GOVERNMENTAL ORGANIZATIONS TO PARTICIPATE IN ITS WORK AS OBSERVERS IN ACCORDANCE WITH UN PRACTICE."

USDEL TOLD CANADIANS WE STILL FOUND THIS UNACCEPTABLE. WE ESTIMATED WE COULD GET SOLID WEO VOTE AGAINST NORWEGIAN OR ALGERIAN PROPOSALS, THUS FORCING THOSE FAVORING THESE PROPOSALS TO CONSIDER SERIOUSNESS OF OUR OBJECTIONS AND GIVING US MORE BARGAINING LEVERAGE FOR DIPLOMATIC CONFERENCE. UNHELPFUL CANADIAN PROPOSAL RESULTED IN WHOLESALE DEFECTIONS BY WEST.

7. LAW COMMISSION VOTE ON CANADIAN LANGUAGE WAS 50 (ITALY, INDONESIA,

EGYPT, SWEDEN, SWITZERLAND, DENMARK) - 8 (US, SPAON, KHMER, VIETNAM, CUBA, PORTUGAL, BRAZIL) - 31 (FRANCE, UK, MEXICO, ISRAEL, GREECE, HOLLAND, AUSTRIAN, SOUTH AFRICA, NEW ZEALAND). CANADA DID NOT PARTICIPATE IN VOTE. CUBA OPPOSED BECAUSE OF ROLE OF REGIONAL IOS (I.E., OAS).

8. LAW COMMISSION ON NOVEMBER 12 ADOPTED ENTIRE RESOLUTION BY VOTE OF 88 - 0 - 8 (US, INDIA, CUBA, PORTUGAL).

9. AT WEO GROUP MEETING NOV 13, US ARGUED WEST SHOULD SOLIDLY VOTE AGAINST PARA AND, IF PARA RETAINED AS EXPECTED, ABSTAIN ON WHOLE RESOLUTION TO SHOW WESTERN CONCERN AND GIVE US LEVERAGE FOR DIPLOMATIC CONFERENCE. ONLY FRANCE SUPPORTED POSITION (BUT GIRARD TOLD US ON NOV 14 THAT HE RECEIVED INSTRUCTIONS TO ABSTAIN ON PARA). TURKEY SAID IT COULD SUPPORT ADMISSION AS OBSERVERS ONLY OF SOUTHERN AFRICAN LIBERATION MOVEMENTS. BELGIUM, AUSTRALIA, CANADA, NEW ZEALAND, NETHERLANDS, FRG, AUSTRIA, CANADA, JAPAN AND ITALY ALL FAVORED ABSTAINING ON PARAGRAPH IF THERE WERE SEPARATE VOTE--BUT OPPOSED REQUESTING SEPARATE VOTE--AND THEN VOTING IN FAVOR OF ENTIRE RESOLUTION. DENMARK SUPPORTED PARA. UK SAID IT WOULD ABSTAIN ON PARA, AND BECAUSE OF FRENCH ATTITUDE, WOULD NOW ABSTAIN ON WHOLE RESOLUTION. IN VIEW OF FOREGOING AND OF PROSPECT THAT VOTE ON PARA IN PLENARY WOULD SHOW STRONGER SUPPORT FOR PARA THAN IN COMMISSION, LIMITED OFFICIAL USE

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GROUP DECIDED NOT TO ASK FOR SEPARATE VOTE AND TO FIGHT ISSUE HEAD-ON AT DIPLOMATIC CONFERENCE. GROUP DECIDED TO MEET IN GENEVA FEBRUARY 18., TWO DAYS PRIOR TO OPENING OF DIPLOMATIC CONFERENCE.

10. PLENARY OF RED CROSS CONFERENCE CONSIDERED RESOLUTION

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ACTION IO-14

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NOVEMBER 14. SPAIN (WHICH HAD NOT ATTENDED WEO GROUP MEETING) ASKED FOR A SEPARATE VOTE ON PARA. AFRICANS OBJECTED TO SEPARATE VOTE. MOTION TO HAVE SEPARATE VOTE DEFEATED 43 - 64 - 16. RESOLUTION AS WHOLE THEN VOTED ON AND ADOPTED BY VOTE OF 81 (CANADA GOVT, DOMINICAN REPUBLIC, CHILE, BELGIUM, AUSTRIA, DENMARK) - 3 (PORTUGAL, SOUTH AFRICA) - 31 (US, FRANCE, GREECE, MEXICO, MONACO, ISRAEL, PERU, KHMER, JAPAN, SOUTH VIETNAM, BRAZIL, CUBA, AND CANADIAN AND TURKISH RED CROSS.

11. FULL TEXT OF RESOLUTION ADOPTED FOLLOWS:

"THE XXIIND INTERNATIONAL CONFERENCE OF THE RED CROSS,

CONSCIOUS THAT ARMED CONFLICTS CONTINUE TO CAUSE UNTOLD HUMAN SUFFERING AND MATERIAL DEVASTATION,

CONVINCED THAT THE PARTIES TO ALL SUCH CONFLICTS NEED HUMANI-
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TARIAN RULES DESIGNED TO REDUCE THE SUFFERING AS MUCH AS POSSIBLE AND TO INCREASE IN THE SAME WAY THE PROTECTION OF NON-COMBATANTS AND

CIVILIAN OBJECTS,

AWARE THAT MANY MODERN MEANS AND METHODS OF WARFARE HAVE ADDED TO THE NEED FOR A REAFFIRMATION AND DEVELOPMENT OF THE PRESENT LAWS AND CUSTOMS APPLICABLE IN ARMED CONFLICTS,

CONFIRMING THE DEDICATION TO THESE QUESTIONS OF THE INTERNATIONAL CONFERENCE OF THE RED CROSS,

RECALLING, IN PARTICULAR, RESOLUTION XIII OF THE XXIST INTERNATIONAL CONFERENCE OF THE RED CROSS,

NOTING, ALSO, THE SUCCESSIVE RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON THE ITEM "HUMAN RIGHTS IN ARMED CONFLICTS", THE LATEST BEING RESOLUTION 3032 (XXVII) ADOPTED ON 18 DECEMBER 1972,

WELCOMING THE DRAFT ADDITIONAL PROTOCOLS TO THE GENEVA CONVENTIONS OF 1949, PREPARED BY THE ICRC AFTER THOROUGH CONSULTATIONS WITH GOVERNMENT EXPERTS, PARTICULARLY DURING CONFERENCES IN GENEVA IN 1971 AND 1972,

WELCOMING, FURTHER, THE REPORT PRESENTED BY THE ICRC ON WEAPONS THAT MAY CAUSE UNNECESSARY SUFFERING OR BE INDISCRIMINATE.

WELCOMING THE DECISION OF THE SWISS FEDERAL COUNCIL TO CONVOKE A DIPLOMATIC CONFERENCE FOR THE PURPOSE OF REAFFIRMING AND DEVELOPING INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS,

CONSIDERING THAT THE DRAFT ADDITIONAL PROTOCOLS OFFER AN EXCELLENT BASIS FOR DISCUSSION AT THE DIPLOMATIC CONFERENCE,

EXPRESSES APPRECIATION TO THE ICRC FOR THE EXTENSIVE WORK IT HAS PERFORMED,

URGES ALL GOVERNMENTS TO PARTICIPATE IN THE DIPLOMATIC CONFERENCE,

URGES THE DIPLOMATIC CONFERENCE TO CONSIDER INVITING NATIONAL LIMITED OFFICIAL USE

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LIBERATION MOVEMENTS RECOGNIZED BY REGIONAL INTER-GOVERNMENTAL ORGANI

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ZATIONS TO PARTICIPATE IN ITS WORK AS OBSERVERS IN ACCORDANCE WITH UNITED NATIONS PRACTICE.

APPEALS TO ALL GOVERNMENTS TO RECOGNIZE THEIR OWN LONG-TERM INTERESTS IN HUMANITARIAN RULES, WHICH RESPOND TO THE URGENT NEEDS TO ALLEVIATE THE SUFFERING BROUGHT BY MODERN ARMED CONFLICTS AND THE NEED TO PROTECT NON-COMBATANTS IN SUCH CONFLICTS AND, FOR THIS

PURPOSE, TO MAKE USE OF THIS DIPLOMATIC CONFERENCE TO ACHIEVE
SUBSTANTIAL HUMANITARIAN GAINS."

APPEALS TO ALL THE PARTICIPANTS AT THE DIPLOMATIC CONFERENCE
TO BE HELD IN GENEVA TO DO ALL IN THEIR POWER BY CO-OPERATION AND
FRUITFUL NEGOTIATIONS TO SECURE THE WIDEST AND SWIFTEST ADOPTION OF
THE TWO ADDITIONAL PROTOCOLS TO THE GENEVA CONVENTIONS OF 1949, AS
INSTRUMENTS OF INTERNATIONAL HUMANITARIAN LAW EFFECTIVE ON AN UNI-
VERSAL BASIS." END TEXT.

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